



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA – 2015-0039]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America waiver.

SUMMARY: This notice provides NHTSA's finding with respect to a request from the Connecticut Department of Transportation's Highway Safety Office (HSO) to waive the requirements of Buy America. NHTSA finds that a non-availability waiver is appropriate for HSO to purchase twenty-three foreign-made training motorcycles using Federal grant funds because there are no suitable motorcycles produced in the United States for safety training purposes.

DATES: The effective date of this waiver is **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.
- **Fax:** Written comments may be faxed to (202) 493-2251.

- **Internet:** To submit comments electronically, go to the Federal regulations website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may also call the Docket at 202-366-9324.

FOR FURTHER INFORMATION CONTACT:

For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202-366-0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263). You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

This notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for Connecticut's HSO to purchase twenty-three training motorcycles using grant funds authorized under 23 U.S.C. 405(f) (section 405) for training motorcycles. Section 405(f) funds are available for use by State Highway Safety Programs to implement effective programs to reduce the number of single and multi-vehicle crashes involving motorcyclists that, among other things, include supporting training of motorcyclists. 23 U.S.C. 405(f).

Buy America provides that NHTSA “shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.” 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b). In this instance, NHTSA has determined a non-availability waiver is appropriate for the twenty-three training motorcycles because there is no sufficient product produced domestically that meets the needs of Connecticut’s HSO.

NHTSA recently granted a waiver to the Hawaii Department of Transportation’s Motor Vehicle Safety Office, Highway Safety Section to purchase training motorcycles because the cost of domestically produced motorcycles is 25 percent more than the cost of foreign-made motorcycles. Connecticut’s HSO request also meets the cost waiver conditions because purchasing the least expensive American alternative, Harley-Davidson Street 500, would increase the cost of the project more than 25 percent. However, this request should be categorized as a non-availability waiver because American motorcycle manufacturers do not produce a motorcycle designed specifically with a smaller engine displacement (250 CC), which is consistent with motorcyclist training programs. As smaller engine displacement is common for training purposes and no American manufacturer produces motorcycles with this specification, then a non-availability waiver is appropriate in this situation.

Connecticut's HSO seeks a waiver to purchase twenty-three Honda (CMX250) Rebel motorcycles at \$4,055 per unit. The total purchase price for all twenty-three motorcycles is \$93,265. Connecticut's training program is designed to expand motorcycle safety efforts. Connecticut asserts that this purchase will enhance its aging fleet of training motorcycles and accommodate the growing demand for training. HSO requires that its training bikes meet specific specifications. The engine displacement must be no less than one-hundred fifteen cubic centimeters and no more than two-hundred seventy-five cubic centimeters. Additionally, the motorcycles must have four stroke, electric start engines. HSO desires to use these motorcycles for its 2015 Motorcycle Safety Training Program because they are designed specifically with smaller engine displacement (250 CC), low brake horse power, and an upright seating position with typical hand and foot controls, which is consistent with motorcyclist training programs. Connecticut, however, is unable to identify any training motorcycles that meet Buy America requirements. HSO researched motorcycle models made by three American motorcycle manufacturers, Harley-Davidson, Inc., Victory Motorcycles, and Indian Motorcycle. Harley-Davidson produces a 500 CC motorcycle called the Street 500, with a MSRP of \$6799. Victory Motorcycles and Indian Motorcycle produce a motorcycle with a much heavier and larger engine displacement than 500 CC, with the lowest MSRP of \$12,499 for the Victory Vegas 8-ball motorcycle and the lowest MSRP of \$10,999 for the Indian Scout. Connecticut's experience with motorcycles with a 500 CC engine displacement is that the bikes, in general, over power beginning riders and do not provide an appropriate upright position for these riders. HSO was unable to find a motorcycle that meets the requirements for training motorcycles that also meets the Buy America requirements. NHTSA is unaware of any other domestic motorcycle manufacturers other than Harley-Davidson, Victory, and Indian. As these manufacturers do not

sell a motorcycle that meets standard requirements for motorcycle safety training purposes, a Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(3), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to HSO in order to purchase twenty-three Honda (CMX250) Rebel motorcycles. This waiver applies to Connecticut and all other States seeking to use section 405 funds to purchase these motorcycles for the purposes mentioned herein. This waiver will continue through fiscal year 2015 and will allow the purchase of these items as required for Connecticut's HSO and its training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate for certain Honda motorcycles. Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider these findings, if through comment, it learns of and can confirm the existence of a comparable domestically made product to the item granted a waiver.

This finding should not be construed as an endorsement or approval of any products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

Authority: 23 U.S.C. 313; Pub. L. 110-161.

Issued in Washington, DC on April 29, 2015, under authority delegated in 49 CFR 1.95.

O. Kevin Vincent
Chief Counsel

Billing Code: 4910-59-P

[FR Doc. 2015-10609 Filed: 5/5/2015 08:45 am; Publication Date: 5/6/2015]